

Message Text

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TAGS: CSCE, PFOR, EGEN, EEC

SUBJECT: EC/EE TRADE - DE JURE OR DE FACTO MFN?

REF: GENEVA 3604

1. WHEN THE EC COMMISSION TOOK OVER RESPONSIBILITY FOR TRADE RELATIONS BETWEEN EC MEMBER STATES AND THE STATE-TRADING COUNTRIES, CONSIDERABLE CONFUSION AROSE AS TO WHETHER OR NOT THE LATTER WOULD CONTINUE TO ENJOY MFN STATUS IN THEIR TRADE WITH THE EC. EARLY THIS YEAR THE EC COUNCIL ATTEMPTED TO RESOLVE THIS QUESTION BY ISSUING A UNILATERAL DECLARATION STATING THAT, IN THE ABSENCE OF TRADE AGREEMENTS BETWEEN THE COMMUNITY AS A WHOLE AND INDIVIDUAL STATE-TRADING COUNTRIES, TRADE WOULD CONTINUE TO TAKE PLACE AS IT HAD IN THE PAST. AS THIS TRADE HAD PREVIOUSLY BEEN CONDUCTED ON AN MFN BASIS, THE COMMUNITY AS A COMMUNITY CONFIRMED THE CONTINUATION OF DE FACTO (BUT NOT DE JURE) MFN TREATMENT. HOWEVER, THE EC COUNCIL ALSO ACKNOWLEDGED THE CONTINUED VALIDITY, ON A BILATRAL

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BASIS, OF THE DE JURE MFN TRADE STATUS CONTAINED IN

CERTAIN EXISTING FCN TREATIES BETWEEN MEMBER STATES AND EASTERN EUROPEAN COUNTRIES, SOME OF WHICH WERE SIGNED BEFORE WORLD WAR I. ALTHOUGH NOT ALL MEMBER STATES HAVE THESE TREATIES WITH ALL EASTERN EUROPEAN COUNTRIES, IT WAS THOUGHT THAT THIS COMBINATION OF THE COUNCIL'S UNILATERAL DECLARATION AND THE CONTINUED EXISTENCE OF THE FCN TREATIES WOULD BE SUFFICIENT TO INDICATE TO THE STATE-TRADING COUNTRIES THAT IT WAS THE COMMUNITY'S INTENTION THAT TRADE CONTINUE ON AN MFN BASIS. THE ENTIRE QUESTION OF DE FACTO OR DE JURE MFN TREATMENT IS ONLY OF LIMITED PRACTICAL SIGNIFICANCE BECAUSE THE COMMUNITY NOW APPLIES AND WILL CONTINUE TO APPLY THE MFN COLUMN OF THE CXT TO IMPORTS FROM EASTERN EUROPEAN COUNTRIES.

2. THE FORMAL CONVERSION OF TRADE RELATIONS FROM DE FACTO TO DE JURE BETWEEN THE COMMUNITY AS A WHOLE AND THE VARIOUS STATE-TRADING COUNTRIES AWAITS THE CONCLUSION OF SEPARATE EC TRADE AGREEMENTS WITH THE INDIVIDUAL STATE-TRADING COUNTRIES WHICH THE COMMISSION AIMS AT NEGOTIATING ALONG THE LINES OF ITS OWN MODEL BILATERAL AGREEMENT.

3. OUR SOURCES HERE INDICATE THAT THE COMMISSION IS NOT ATTEMPTING TO PUT PRESSURE ON THE EASTERN EUROPEANS TO BEGIN NEGOTIATIONS ON MODEL BILATERAL AGREEMENTS BY MEANS OF LANGUAGE CHANGES IN CSCE, AS INDICATED PARA 3, REFTEL. IN FACT, THE COMMISSION'S ONLY CONCERN SEEMS TO BE TO PROTECT ITS OWN POSITION VIS A VIS THE EC MEMBER STATES BY ENSURING THAT DISCUSSIONS IN CSCE NOT DEVELOP SO AS TO PRECLUDE DIRECT COMMISSION-EE TALKS. GREENWALD

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